

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

DAVID McGLYNN,

Plaintiff,

v.

SCIENCE LITERACY PROJECT
d/b/a GENETIC LITERACY
PROJECT; and JON ENTINE,

Defendants.

Case No. _____

COMPLAINT

DEMAND FOR JURY TRIAL

Plaintiff, DAVID McGLYNN (“McGlynn”), by and through his undersigned counsel, brings this Complaint against Defendant, SCIENCE LITERACY PROJECT d/b/a GENETIC LITERACY PROJECT (“Science Literacy Project”) and JON ENTINE (“Entine”), and alleges as follows:

NATURE OF THE ACTION

1. This is a civil action seeks damages and injunctive relief for copyright infringement and the unauthorized alteration of copyright management information under the Copyright Act of the United States, 17 U.S.C. § 101, *et seq.*

PARTIES

2. McGlynn is a professional commercial photographer residing in the State of New York.

3. Upon information and belief, Science Literacy Project has a place of business at 4780 Ashford Dunwoody Road, Atlanta, Georgia 30338.

4. Upon information and belief Entine is the Executive Director of Science Literacy Project.

5. For the purposes of this Complaint, unless otherwise indicated, “Defendant” includes all agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogates, representatives, and insurers of Defendant named in this caption.

JURISDICTION AND VENUE

6. This Court has original subject matter jurisdiction over copyright claims pursuant to 28 U.S.C. §§ 1331 and 1338(a).

7. This Court has personal jurisdiction over Defendants because Defendants are doing business in the State of Georgia, and Defendants’ acts of infringement complained of herein occurred in the State of Georgia. Specifically, Defendant’s address for which to submit donations is 4780 Ashford Dunwoody Road NE, Suite 540-431, Atlanta, Georgia 30338.

8. Venue in this judicial district is proper under 28 U.S.C. § 1391(b)-(d) and/or § 1400(a) in that this is the judicial district in which a substantial part of the acts and omissions giving rise to the claims occurred and/or Defendant is a corporate defendant whose contacts with this district are sufficient to subject it to the personal jurisdiction of this Court.

FACTUAL ALLEGATIONS

9. McGlynn is a professional commercial photographer. McGlynn has licensed or sold his photographs to dozens of major media outlets including the New York Post, The New York Times, WIRED, Forbes, ESPN, Money, Newsweek, and Vibe.

10. McGlynn’s livelihood depends on receiving compensation for the photographs he produces, and the copyright protection afforded to McGlynn’s work deters would-be infringers from copying and profiting from his work without permission.

11. McGlynn is the sole author and exclusive right’s holder to the

photograph of Jeffery Epstein (“Epstein Image”). A true and correct copy of the Epstein Image is shown below:



12. McGlynn registered the Epstein Image with the United States Copyright Office under Registration Number VA 2-161-714.

13. The Epstein Image originally appeared in an article featured by the New York Post (“Post”) on May 9, 2019, titled *Billionaire Pedophile Jeffrey Epstein Illegally Building Virgin Islands Compound* (“Post Article”). A true and correct copy of the screenshot of the Post Article is shown in Exhibit A.

14. The Epstein Image, as it appeared in the Post Article, included a photo credit below the bottom left corner of the image crediting the author of the Epstein Image as David McGlynn. A true and correct copy of the screenshot of the Epstein Image with the photo credit is attached hereto as Exhibit B.

15. McGlynn is informed and believes Science Literacy Project is a non-

profit company that controls and manages the editorial website <https://geneticliteracyproject.org/> (“Website”).

16. McGlynn is informed and believes Entine is the executive director and principal editor of Science Literacy Project.

17. McGlynn is informed and believes Entine and Science Literacy Project has the ability to supervise and control the content on the Website.

18. McGlynn is informed and believes Entine and Science Literacy Project utilize the Website for commercial purposes in order to attract user traffic and attract donors and collect donations for the company.

19. On or about November 3, 2020, McGlynn discovered Science Literacy Project had used the Epstein Image on the Website (“First Infringement”). True and correct screenshots of the First Infringement with the date are attached hereto as Exhibit C.

20. McGlynn did not consent to or authorize Science Literacy Project to use the Epstein Image on the Website.

21. McGlynn also discovered Science Literacy Project had used the Epstein Image on the Website in a second location (“Second Infringement”), and the Epstein Image, as it was being used on the Website, did not include his photo credit. True and correct screenshots of the Second Infringement with the date are attached hereto as Exhibit D.

22. McGlynn did not consent to or authorize Science Literacy Project to use the Epstein Image on the Website without his photo credit.

23. After discovering the infringements, McGlynn hired the Law Firm of Higbee & Associates to pursue this matter. On January 29, 2020, Entine had sent an email to Higbee & Associates emphatically communicating that he would not respond to any additional emails sent from Higbee & Associates regarding any alleged infringements.

24. McGlynn is informed and believes the Epstein Image remained on the Website and accessible by the general public continuously August 2, 2019, and as of June 25, 2021, Science Literacy Project has not removed the Epstein Image from its website or server. A true and correct time-stamped screenshot showing the First Infringing Image with the June 25, 2021 date is attached as Exhibit E.

25. McGlynn is informed and believes Entine and Science Literacy Project knew it did not have permission to use the Epstein Image on the Website and willfully infringed McGlynn's Epstein Image.

26. McGlynn is informed and believes Entine and Science Literacy Project copied McGlynn's Epstein Image and posted, publicized, and otherwise held out to the public the Epstein Image in the course and scope of its business activities in order to receive commercial benefit and acquire monetary gain and market benefit as a result of its use.

27. McGlynn is informed and believes Entine and Science Literacy Project removed the photo credit on the Epstein Image in order to conceal its infringing conduct.

FIRST CAUSE OF ACTION
COPYRIGHT INFRINGEMENT
17 U.S.C. § 101, *et seq.*

28. McGlynn incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

29. McGlynn owns a valid copyright in the Epstein Image.

30. McGlynn registered the Epstein Image with the Register of Copyrights pursuant to 17 U.S.C. § 411(a).

31. Entine and Science Literacy Project (including their employees, agents, contractors or others over whom they have responsibility and control) copied and displayed McGlynn's unique and original Epstein Image without

McGlynn's consent or authorization in violation of 17 U.S.C. § 501.

32. McGlynn is informed and believes and thereon alleges that Entine and Science Literacy Project willfully infringed upon McGlynn's copyrighted Epstein Image in violation of Title 17 of the U.S. Code because, *inter alia*, Entine and Science Literacy Project used, published, communicated, posted, publicized, and otherwise held out to the public for commercial benefit, McGlynn's original and unique Epstein Image without McGlynn's consent or authority by using it in on the Website, and Entine and Science Literacy Project knew or should have known they did not have a legitimate license to use the Epstein Image.

33. As a result of Entine and Science Literacy Project's violations of Title 17 of the U.S. Code, McGlynn has sustained significant injury and irreparable harm.

34. As a result of Entine and Science Literacy Project's violations of Title 17 of the U.S. Code, McGlynn is entitled to any actual damages pursuant to 17 U.S.C. § 504(b), or statutory damages in an amount up to \$150,000 pursuant to 17 U.S.C. § 504(c).

35. As a result of Entine and Science Literacy Project's violation of Title 17 of the U.S. Code, the court in its discretion may allow the recovery of full costs from Entine and Science Literacy Project as well as reasonable attorney's fees as part of the costs pursuant to 17 U.S.C. § 505.

36. McGlynn is also entitled to injunctive relief to prevent or restrain infringement of his copyright pursuant to 17 U.S.C. § 502.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Entine and Science Literacy Project as follows:

- For statutory damages in an amount up to \$150,000 for each infringement pursuant to 17 U.S.C. § 504(c); or, alternatively at McGlynn's election, for

actual damages and disgorgement of profits, under 17 U.S.C. § 504(a)(1);

- For costs of litigation and reasonable attorney's fees, pursuant to 17 U.S.C. § 505;
- For an injunction preventing Defendants from further infringement of the Epstein Image pursuant to 17 U.S.C. § 502; and
- For any other relief the Court deems just and proper.

Dated: June 30, 2021

Respectfully submitted,

/s/ Jayma C. Leath

Jayma C. Leath, Esq.

GA State Bar No. 639678

HIGBEE & ASSOCIATES

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(714) 617-8350

(714) 597-6729 facsimile

Counsel for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff, David McGlynn, hereby demands a trial by jury in the above matter.

Dated: June 30, 2021

Respectfully submitted,

/s/ Jayma C. Leath

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